

Approved For Release 2005/08/03 : CIA-RDP79-00957A000100100065-8

CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C. 20505

15 JUL 1976

Mr. James M. Frey
Assistant Director for Legislative Reference
Office of Management and Budget
Washington, D. C. 20503

Dear Mr. Frey:

This is in response to your request for our comments on the Department of Defense's letter of 12 July 1976 expressing its views on our draft bill, "To amend the National Security Act of 1947, as amended, and for other purposes."

The narrow and immediate objective of our draft bill is to elevate the administratively-created position of "Deputy to the Director of Central Intelligence for the Intelligence Community" to the statutory position of "Deputy Director of Central Intelligence for the Intelligence Community," to be appointed by the President with the advice and consent of the Senate. The draft bill is designed to accomplish this narrow purpose, as far as possible, within the framework of existing law and in a way which will be consistent with Executive Order 11905. It is our hope that by keeping the bill simple and direct we can achieve its early and favorable consideration.

We are opposed to the Department of Defense's suggestion that this bill include a provision requiring that at least one of the three positions of Director; Deputy Director, Agency; and Deputy Director, Community, be a commissioned officer. Such a requirement would unnecessarily impinge upon the discretion of the President in the exercise of his appointment powers.

As it now stands, our draft bill is consistent with existing law in requiring only that one of the two Agency leadership positions be occupied by a civilian. Thus, the draft bill would permit two of the three positions in question to be occupied by commissioned officers, whereas existing law permits one of the two positions to be so occupied. It is difficult to see how the Department of Defense could view this as "vitiating the checks and balances presently embodied in the mixed military/civilian leadership of the CIA." Military participation in this leadership is now, and should continue to be, the product of Presidential discretion, not positive law.



Moreover, it should be pointed out that the question of civilian and military leadership was a central issue in the Congress during consideration of the National Security Act of 1947. The legislative history of that Act (P.L. 80-253) and the Act of 1953 (P.L. 83-15) indicates that existing law is a careful compromise arrived at in the face of exceedingly strong sentiment in the Congress that civilian leadership be required for the Central Intelligence Agency just as it was for the Department of Defense. The compromise sought to preserve maximum discretion for the President, while, at the same time, satisfying Congress' insistence that the leadership of central intelligence not be subject to military control. Frankly, we do not think it is the time to re-open these issues. The Department's suggestion is wholly novel, unsupported by any aspect of E.O. 11905, and departs from existing law beyond that which is necessary to accomplish the narrow purpose of this draft bill. Its inclusion in the bill could endanger its chances for early and favorable consideration.

The Department of Defense also suggests certain other enumerated changes to the draft bill. We are opposed to the first suggestion because it is not necessary at this time. Further amendments to the National Security Act and Central Intelligence Agency Act can be addressed later. These will be more appropriate vehicles for providing the Intelligence Community staff with whatever statutory charter may be necessary.

We are opposed to the second suggestion simply because it is unnecessary; and we have decided to delete the fourth sentence of the draft bill, so we will not comment on the third suggestion.

We are enclosing a clean text of the draft bill reflecting certain changes discussed informally with the staff of the Office of Management and Budget.

Sincerely,

George L. Cary
Legislative Counsel

Enclosure
Distribution:

Orig - Addressee w/encl.
1 - DDCI w/encl.

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1 - OLC/Subj. w/encl.

1 - OLC/Chrono wo/encl.

A BILL

Approved For Release 2005/08/03 : CIA-RDP79-00957A000100100065-8

To amend the National Security Act of 1947, as amended, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 102(a) of the National Security Act of 1947 (50 U.S.C.A. 403(a)) is amended to read as follows:

"(a) There is established under the National Security Council a Central Intelligence Agency with a Director of Central Intelligence who shall be the head thereof. There shall be two Deputy Directors of Central Intelligence: a Deputy Director of Central Intelligence for the Central Intelligence Agency (Deputy Director, Agency) and a Deputy Director of Central Intelligence for the Intelligence Community (Deputy Director, Community). The Director may, to the extent he deems appropriate and without being relieved of his responsibility, delegate to each of the Deputy Directors any of those authorities vested in him by virtue of his position as Director of Central Intelligence and as head of the Central Intelligence Agency. The Director and the Deputy Directors shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals in civilian life or from among the commissioned officers of the armed services whether in active or retired status: Provided, however, that at no time shall the positions of Director and Deputy Director, Agency, be occupied simultaneously by commissioned officers of the armed services, whether in an active or retired status."

SECTION 2. (a) Section 102(b)(3) of the National Security Act of 1947 (50 U.S.C.A. 403(b)(3)) is amended by striking the words "of Central Intelligence" wherever they appear in that subsection.

(b) Section 3(b) of the Central Intelligence Agency Act of 1949 (50 U.S.C.A. 403c(b)) is amended to read as follows:

"(b) In the exercise of the authorities granted in subsection (a) of this section, the term "Agency head" shall mean the Director of Central Intelligence, or the Deputy Director of Central Intelligence for the Central Intelligence Agency."

(c) Section 5314(35) of title 5, United States Code, is amended by striking the word "Director" and inserting in lieu thereof the word "Directors."



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

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July 13, 1976

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer

Central Intelligence Agency

SUBJECT: Department of Defense views on CIA draft bill,
"To amend the National Security Act of 1947, as amended,
and for other purposes."

The Office of Management and Budget requests the views of
your agency on the above subject before advising on its
relationship to the program of the President, in accordance
with OMB Circular A-19.

A response to this request for your views is needed
no later than Friday, July 16, 1976.

Questions should be referred to Hilda Schreiber
(395-4650) or to Ann Stone (395-4702),
the legislative analyst in this office.

Naomi R. Sweeney

Naomi R. Sweeney, for
Assistant Director for
Legislative Reference

Enclosures



GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE

WASHINGTON, D. C. 20301

12 July 1976

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D.C. 20503

Dear Mr. Lynn:

Reference is made to your request for the views of the Department of Defense on a CIA draft bill, "To amend the National Security Act of 1947, as amended, and for other purposes."

The proposed legislation amends section 102 of the National Security Act of 1947 by creating, in lieu of the one Deputy Director of Central Intelligence currently provided for in that section, two Deputy Directors: a Deputy Director of Central Intelligence for the Central Intelligence Agency (Deputy Director, Agency) and a Deputy Director of Central Intelligence for the Intelligence Community (Deputy Director, Community). Provision is made for the delegation of authority to the Deputy Directors by the Director.

The draft bill provides that the Director and Deputy Directors shall be appointed by the President with the advice and consent of the Senate. It provides further that the positions of Director of Central Intelligence and Deputy Director, Agency shall not be occupied simultaneously by a commissioned officer of the armed services, whether in an active or retired status.

In the draft bill's present form, there is a possibility that the three top CIA positions could be occupied by civilian appointees. Such a development would effectively exclude the unique viewpoint that a senior military official could bring to the top echelon of the Intelligence community. At the same time, it would vitiate the checks and balances presently embodied in the mixed military/civilian leadership of the CIA. Accordingly, it is recommended that at the end of proposed section 102(a) the period be replaced by a colon and the following proviso be added:

"Provided further, that at least one of the three positions (Director; Deputy Director, Agency; Deputy Director, Community) will be occupied by a commissioned officer of the armed services in an active status."

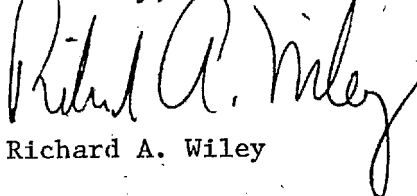
The following changes in the draft bill are also suggested:

1. In order to clarify the Director's responsibilities and to show consistency with section 3(d)(1)(ii) of E.O. 11905, the following revision of the first sentence of the draft bill is recommended:

"There is established under the National Security Council a Director of Central Intelligence and a Central Intelligence Agency. The Director of Central Intelligence shall be the executive head of the Central Intelligence Agency and Intelligence Community staff."

2. In the third sentence, add the word "respectively" following "...delegate...".
3. To provide additional flexibility to the Director, add in the fourth sentence "the Intelligence Community staff or" before the words "...the Central Intelligence Agency...".
4. Section 2(c) of the draft bill should amend section 5314(35) of title 5, United States Code, in lieu of 5314(36).

Sincerely,



Richard A. Wiley

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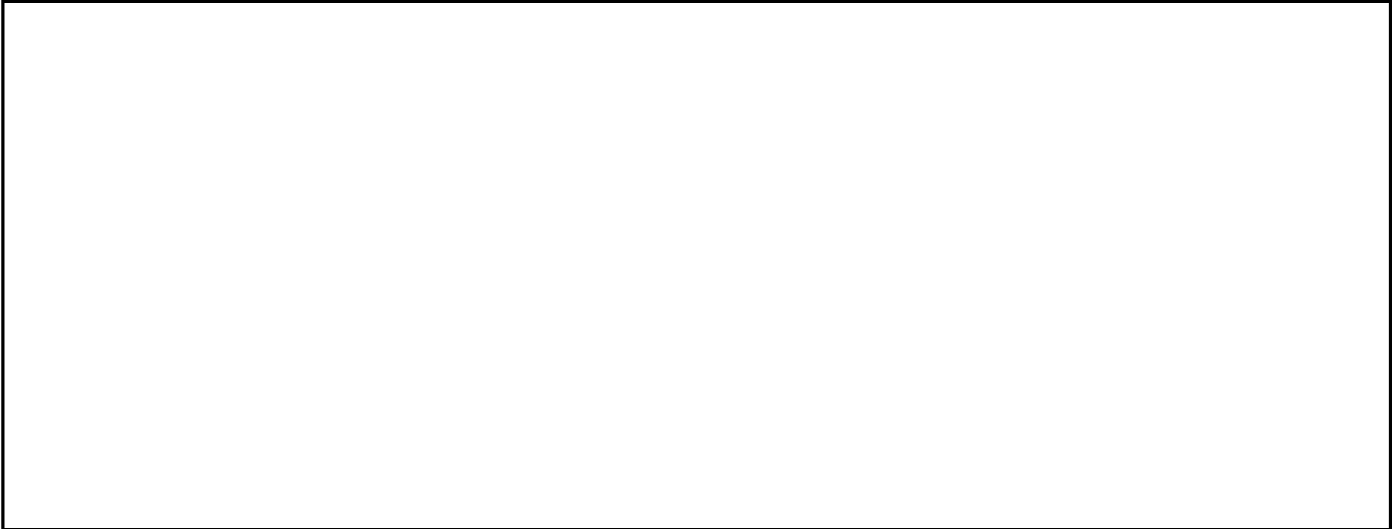
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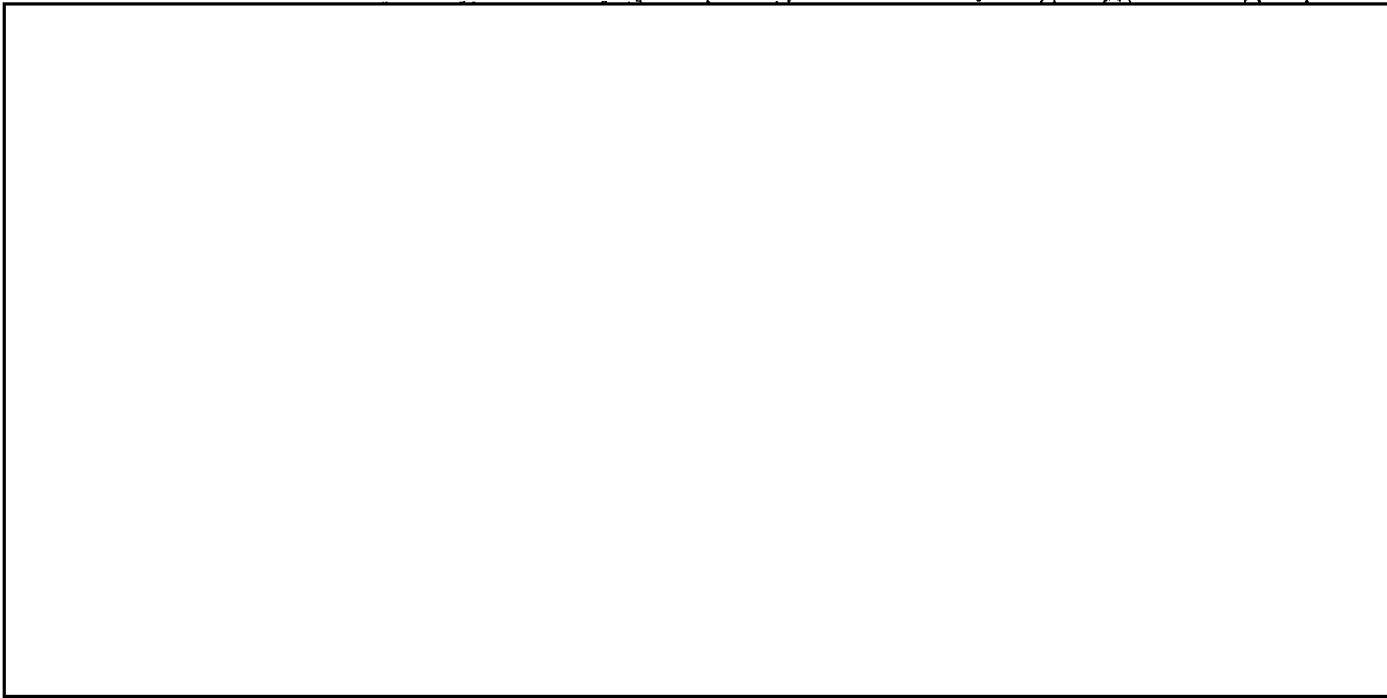
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Thursday - 15 July 1976

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Concerning the Second Deputy legislation, I told Oliver the Director does not agree with the DOD proposal to have at least one of the top three men in the Agency a military person. I said we would try to get a letter out today objecting to it on grounds that it is an unnecessary infringement of the President's power of appointment. 25X1



GEORGE L. CARY
Legislative Counsel

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Mr. Lapham Mr. Falkiewicz

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